

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR MARK DESAULNIER, CHAIRMAN

BILL NO: sb 654
AUTHOR: steinberg
VERSION: 1/4/12
FISCAL: YES

Analysis by: Mark Stivers
Hearing date: January 10, 2012

SUBJECT:

Redevelopment housing funds

DESCRIPTION:

This bill allows the host city or county of a dissolving redevelopment agency to retain the funds on deposit in the agency's housing fund and expands the types of agency loans from the host city or county that are considered enforceable obligations.

ANALYSIS:

Historically, the Community Redevelopment Law has allowed a local government to establish a redevelopment area and capture all of the increase in property taxes that is generated within the area (referred to as "tax increment") over a period of decades. The law requires redevelopment agencies to deposit 20 percent of tax increment into a Low and Moderate Income Housing Fund (L&M fund) to be used to increase, improve, and preserve the community's supply of low and moderate income housing available at an affordable housing cost.

In 2011, the Legislature enacted two bills, AB 26X (Blumenfield) and AB 27X (Blumenfield), Chapters 5 and 6, respectively, of the First Extraordinary Session. AB 26X eliminated redevelopment agencies and established procedures for winding down the agencies, paying off enforceable obligations, and disposing of agency assets. In defining "enforceable obligations," AB 26X included a loan agreement between an agency and its host city or county that was executed within two years of the date of creation of the redevelopment agency. AB 26X also included provisions allowing the host city or county of a dissolving redevelopment agency to retain the housing assets and functions previously performed by the agency, except for funds on deposit in the agency's L&M fund. If the host city or county chooses not to retain these assets and functions, a local housing

SB 654 (STEINBERG)

Page 2

authority or the state's Department of Housing and Community Development (HCD) may assume them.

AB 27X allowed redevelopment agencies to avoid elimination if they made payments to schools in the current budget year and in future years. In December, the California Supreme Court in California Redevelopment Association v. Matosantos upheld AB 26X and overturned AB 27X. As a result, all of the state's roughly 400 redevelopment agencies will dissolve on February 1, 2012.

This bill makes the following changes to AB 26X, the redevelopment agency elimination bill:

Allows a host city or county of a dissolving agency to retain the funds on deposit in the agency's L&M fund and requires the city or county to expend those funds in compliance with the housing provisions of the Community Redevelopment Law. If the city or county chooses not to retain these funds, the local housing authority or HCD may do so.

Requires, rather than permits, an entity assuming the housing functions of an agency to enforce affordability covenants on affordable housing properties.

Expands the definition of an "enforceable obligation" to include two additional types of loan agreements between an agency and its host city or county: 1) a loan that was executed within two years of the date of creation of a project area, if the loan is specific to that project area; and 2) a loan to fund the agency's 2009-10 SERAF payment to schools.

COMMENTS:

1. Purpose of the bill . According to the author, this bill is intended to preserve for affordable housing the roughly \$2 billion in outstanding balances in the L&M funds maintained by redevelopment agencies throughout the state. In the absence

of this legislation, those funds will be liquidated and distributed as property tax revenues to local agencies, as prescribed in AB 26X. Late last year, the Legislature supported these same changes in SB 8X (Budget and Fiscal Review), but Governor Brown vetoed that bill, stating that it was "premature" in light of the then-pending litigation.

2.Undoing a last minute change . The Controller's Community Redevelopment Agencies Annual Report for the fiscal year ended June 30, 2010 shows a statewide aggregate "unreserved designated" balance of \$967 million and an "unreserved

undesigned" balance of \$391 million in agency L&M funds. The language of Governor Brown's initial proposal to eliminate redevelopment agencies would have allowed host cities and counties to retain the L&M fund balances of a dissolving agency. The bill that the Legislature ultimately enacted, however, reversed this authority. At the time, staff stated that the change was made out of a concern that allowing retention of L&M fund balances potentially could be viewed as a reallocation of property tax and thus trigger a 2/3 vote requirement for all of AB 26X. Legislative Counsel has since settled on the view that L&M funds are assets of the redevelopment agencies under Article XVI, Section 16 of the State Constitution and not property taxes under Section 1 of Article XIII A. This view is reflected in the majority vote key for this bill. This bill restores the governor's original proposal to allow cities and counties to keep L&M fund balances and continue to use them to develop affordable housing.

3.Start-up loans . Because it often takes years after the adoption of a project area for a redevelopment agency to begin receiving sufficient tax increment to issue bonds, most host cities and counties jump-start work in project areas by making loans to the agency to be repaid with future tax increment. AB 26X only recognizes as "enforceable obligations" loans made within two years of the creation of the agency, which practically only affects an agency's first project area. Many agencies have multiple project areas. This bill adds to the definition of "enforceable obligations" loans made within the first two years of the adoption of a project area, provided that the loan is specific to that project area. The bill does not recognize loans made at a later date, in which case the host city or county may not receive repayment of those later loans.

4.Urgency needed . Given that, under the recent Supreme Court decision, redevelopment agencies will be winding down and transferring assets during 2012, this bill needs an urgency clause to ensure that a host city or county may elect to retain L&M fund balances before the balances are redistributed.

POSITIONS: (Communicated to the committee before noon on
Wednesday, January
4, 2012)

SUPPORT: None received.

OPPOSED: None received.

